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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,063	02/25/2004	Darryl C. Bassani	BASSA.023A	9542

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EXAMINER	
EDWARDS, LOREN C	

ART UNIT	PAPER NUMBER
3748	

DATE MAILED: 11/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/787,063	BASSANI, DARRYL C.	
	Examiner	Art Unit	
	Loren C. Edwards	3748	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) *1-9,19 and 20* is/are allowed.

6)☒ Claim(s) *10-18,21 and 22* is/are rejected.

7)☒ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. An Applicant's Amendment filed on 10/10/06 has been entered. Claims 1, 10, and 19 have been amended. Overall, claims 1-22 are pending in the application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claim 10 recites the limitation "a web connecting at lest two of the plurality of flanges" in line 10. There is insufficient antecedent basis for this limitation in the claim. More specifically, applicant has only claimed "a flange" and then goes on to claim "... a plurality of flanges". Since applicant has only claimed a single flange the examiner has interpreted the claim as to only include a single flange, therefore a web would not exist.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 10 and 13-16, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tromel (U.S. 3,177,649) in view of Coff et al. (U.S. 5,944,322). Tromel discloses an apparatus configured to attach an exhaust pipe to an engine head to form an exhaust header for collecting exhaust gases from one or more exhaust ports from a cylinder of an internal combustion engine, the apparatus comprising: a flange (Tromel; Fig. 1; Fig. 4, No. 18) having a passageway extending therethrough, the flange further comprising: a recessed seal surface (Tromel; Fig. 4) configured so as to support therein a gasket (Tromel; Fig 4, No. 19) in a manner such that at least a portion of the gasket is exposed to gas flowing out the exhaust port, wherein the seal surface is configured to circumscribe a single exhaust port; a gasket located on the seal surface and configured to form a seal between the internal combustion engine and the flange. Tromel fails to specifically disclose the gaskets comprising graphite. Coff discloses a gasket for use in hi-temperature applications that contains graphite (Coff; Col. 4, Line 12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the gasket of Coff in the apparatus of Tromel for the advantage of an economical gasket which is capable of withstanding the high temperatures and thermal cyclings common to an internal engine application (Coff; Col. 4, Lines 11-22).

7. With regards to claim 13, the modified Tromel discloses the apparatus of claim 10, as described above, and further wherein the flange comprises two bolt holes (Tromel; Fig. 4, No. 21).

8. With regards to claim 14, the modified Tromel does not disclose expressly a recess having a depth of approximately 0.1 inches. At the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to set the depth of the recess to 0.1 inches because Applicant has not disclosed that a depth of 0.1 inches provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with a recess of another depth because it would have allowed for another sized gasket to fit in the recess.

9. With regards to claim 15, the modified Tromel discloses the apparatus of claim 10, as described above, and further wherein the seal surface has a substantially annular shape (Tromel; Fig. 4).

10. With regards to claim 16, the modified Tromel discloses the apparatus of claim 10, as described above, and further wherein the seal surface has a substantially rectangular shape (Tromel; Fig. 4).

11. With regards to claim 21, the modified Tromel discloses an apparatus configured to attach an exhaust pipe to an engine head to form an exhaust header for collecting exhaust gases from one or more exhaust ports from a cylinder of an internal combustion engine, the apparatus comprising: a flange (Tromel; Fig. 1; Fig. 4, No. 18) having a passageway extending therethrough, the flange further comprising bolt holes (Tromel; Fig. 4, No. 21) for directly connecting the flange to the internal combustion engine, and a recessed seal surface (Tromel; Fig. 4) configured so as to support therein a gasket in a manner such that at least a portion of the gasket is open to the passageway, wherein

the recessed seal surface is configured to circumscribe a single exhaust port; and a graphite gasket (Coff; Abstract) configured to be positioned against the seal surface and form a seal between the internal combustion engine and the flange.

12. With regards to claim 22, the modified Tromel discloses the header and apparatus of claim 10 and the method for installation is inherently included.

13. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tromel as applied to claim 10 above, and further in view of Adams (U.S. 4,968,066). The modified Tromel discloses the apparatus of claim 10, as described above, but fails to specifically discuss wherein the flange is made of metal or, in particular, iron. Adams teaches a flange which is made of iron (Adams; Col. 3, Lines 56-59). It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize the material of Adams in the apparatus of Tromel for the advantage of reduced cost.

14. Claim 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tromel as applied to claim 10 above, and further in view of Brooks (U.S. 3,875,744). The modified Tromel discloses an apparatus configured to attach an exhaust pipe to an engine head to form an exhaust header but lacks a cross-sectional area which varies, or which increases. Brooks teaches an exhaust system which has a cross sectional area that both varies and increases as it moves away from the engine (Brooks; Figs. 1-3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make a flange that had across sectional area that varied and increased n order to reduce back pressure of an exhaust system.

Allowable Subject Matter

15. Claims 1-9, 19, and 20 are allowed.

Response to Arguments

16. Applicant's arguments filed 10/10/06 have been fully considered but they are not persuasive. With regards to the argument that the modified Tromel fails to teach a "flange further comprising bolt holes for directly connecting the flange to the internal combustion engine" the examiner argues that because the bolts (Fig. 4, No. 21) connect the bolting flange (Fig. 1, No. 15) to the engine block, and because the flange (Fig. 4, No. 18) is between the bolting flange and the engine block as pictured in Figure 4, the flange (Fig. 4, No. 18) must have holes for the bolts to pass through. Further, the phrase "directly connecting" fails to distinguish away from the type of connection shown in Figure 4 of Tromel.

Conclusion

17. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Loren C. Edwards whose telephone number is (571) 272-2756. The examiner can normally be reached on M-TH 5:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Denion can be reached on (571) 272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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